



महाराष्ट्र शासन राजपत्र

असाधारण भाग चार-क

वर्ष ५, अंक २५]

शनिवार, मे ४, २०१९/वैशाख १४, शके १९४१

[पृष्ठे ४, किंमत : रुपये ९.००

असाधारण क्रमांक ३२

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाव्यतिरिक्त इतर वैधानिक प्राधिकाऱ्यांनी तयार केलेले

(भाग एक, एक-अ व एक-ल यांमध्ये प्रसिद्ध केलेले वैधानिक नियम व आदेश यांव्यतिरिक्त इतर)

वैधानिक नियम व आदेश ; यात भारत सरकार, उच्च न्यायालय, पोलीस आयुक्त, आयुक्त (राज्य उत्पादन शुल्क), जिल्हादंडाधिकारी व निवडणूक आयोग, निवडणूक निर्णय अधिकारी व निवडणूक आयोगाखालील इतर प्राधिकारी यांनी तयार केलेले वैधानिक नियम व आदेश यांचा समावेश होतो.

HIGH COURT OF JUDICATURE AT BOMBAY

NOTIFICATION

No. P. 0703/Rule/BHC.—In exercise of powers under Part X of the Code of Civil Procedure, 1908 (5 of 1908) and Order V, Rule 9 of the Code of Civil Procedure, 1908 and Chapter VI of the Code of Criminal Procedure, 1973 and all powers enabling it in this behalf, the High Court of Bombay, hereby makes the following Rules :—

“BOMBAY HIGH COURT SERVICE OF PROCESSES BY ELECTRONIC MAIL SERVICES (CIVIL PROCEEDINGS) RULES, 2017”

CHAPTER-1

GENERAL

1. *Title*.—These Rules may be called the Bombay High Court Service of Processes by Electronic Mail Service (Civil Proceeding) Rules, 2017.
2. *Commencement*.—These Rules shall come into force with effect from the date of notification.
3. *Application*.—These Rules shall apply to all Commercial disputes including Commercial Appeals under the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015.
4. *Definitions*.—(a) “Code” means Code of Civil Procedure, 1908.
 (b) “High Court” means the High Court of Judicature at Bombay.
 (c) “District Judge” means the District and Sessions Judge in the State of Maharashtra.
 (d) “Electronic Mail” or e-mail is a store and forward method of composing, sending, storing and receiving messages in electronic form via a computer based communication mechanism.

(e) "Electronic Mail Service" means a notice or any process of Court sent by electronic mail by an Officer authorised in this behalf by the High Court or the District Judge as the case may be, such communication emanating from an address specified for the purposes of these Rules.

CHAPTER-2

SERVICE BY ELECTRONIC MAIL SERVICE

5. *Parties to provide electronic mail address, if desirous to serve the other party by electronic mail.*—(a) A party desirous of serving notice/summons/process to the other party by Electronic Mail Service shall provide electronic mail address of the other party or a party whom it would like to serve by Electronic mail Service. Party shall file an affidavit in the Court stating (i) that the electronic mail address of the other party given by him is correct to the best of his knowledge and (ii) that in correspondences prior to the filing of the case, the other Party has accepted and responded to communication at that e-mail address.

(b) Where the other party is a company, partnership, body corporate or other legal entity required by law to maintain an e-mail address under the law under which it is registered, or under any applicable taxation statute, such entity shall be required to accept electronic service of process via the electronic communication service on such registered e-mail address and it shall not be necessary for the party desiring to serve by e-mail to file an affidavit under sub- rule (b) but only to furnish the official or registered e-mail address of the other party.

(c) Where the other party has a website or portal on which a contact e-mail address is furnished, that e-mail address may, with the leave of Court, be used for the electronic mail service.

CHAPTER-3

MISCELLANEOUS

6. *Notices or other process of service.*—The Court may direct that a notice or any process of service to any of the parties to the Commercial dispute including Commercial appeals may be sent by Courier, Fax or Electronic Mail Service in the manner and in the format it may consider appropriate.

7. *Parties may voluntarily apply to be served by Electronic Mail Service.*—During the trial of the case, any of the parties to the suit or interlocutory proceedings, may file an application in writing giving its electronic mail address, with the request that it may be served with the notices of the Court or any other communication under the Code at the electronic mail address as furnished. Any notice or communication sent on the said address will constitute a valid service of such notice or the communication on such party.

8. *Saving of the powers of the Court.*—Nothing in these rules shall be deemed to limit or otherwise affect the powers of the Court relating to service of summons or notices or other process of service as given in the Code or any other law for the time being in force.

PROTOCOL

SERVICE OF PROCESS THROUGH ELECTRONIC MAIL SYSTEM

OBJECT.—The object of these guidelines is to lay down a protocol for service of electronic process in Commercial Disputes including Commercial Appeals as defined in the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 in addition to the regular mode of service of process.

(A) *GENERATION OF PROCESS.*—(1) The parties shall mention their email address in the Memo of the "Registered Address".

(2) No email address shall be mentioned in the title of a plaint or petition. Email address mentioned in the title shall be masked.

(3) The party desirous of serving electronic process shall provide all documents which are required to be sent with such process in Portable Document Format (PDF) or deposit in the Court fees at the rate which may be prescribed by the High Court for scanning of the required documents.

(4) On production of the receipt, the concerned clerk shall send the documents to the Scanning Section of the concerned Court for scanning.

(5) The Scanning Section shall after scanning the documents in PDF to the concerned Court through Local Area Network/Internet.

(6) The Clerk of the Court shall generate Summons through the Case Information System (CIS) Software using the requisite credentials.

(7) The option of generating summons is available in Court Proceedings → Summons-Notice (Eng.) → Notice Generation → Select Case → Select Party → Select Summons-Notice, from where user can choose the type of Summons-Notice to be issued.

(8) In order to keep track of such process, one main folder shall be created with the name as “Electronic Process” on the local disk of the computer of the concerned Court. The main folder shall contain sub-folders of Case No. Each such sub-folder will contain the following sub-folder.

- (a) Summons or Notice
- (b) ‘Documents’.
- (c) ‘Report’

(9) Summons/Notice, generated in PDF shall be stored in the sub-folder “**Summons/Notice**” of the case No. Documents sent along with such Electronic Process shall be stored in the sub-folder ‘**Documents**’ and the reports of such Summons or Notice shall be stored in the sub-folder ‘**Report**’.

(B) *DELIVERING THE PROCESS TO NAZARAT BRANCH (PROCESS SERVING AGENCY) FOR SERVICE THROUGH E-MAIL.*—(10) The concerned Clerk shall transmit e-summons or Notice and the documents in PDF to the Nazarat Branch along with the email address of the opposite party through Local Area Network/Internet.

(11) Judge or In-charge, Nazarat Branch of the concerned Court Establishment shall digitally sign the Electronic Process.

(12) In-charge, Nazarat Branch of the concerned Court Complex shall maintain record of Electronic Process.

(13) A separate unique official e-mail ID for Nazarat Branch of each Court Establishment shall be created. It should be one way email account — it can only send, not receive any mail.

(14) This email account should be used exclusively for sending electronic process. It shall not be used for any other purpose.

(15) Electronic Process be sent to the email ID of the concerned recipient through official e-mail ID of Nazarat Branch of the Court Establishment. While sending such E-mail, following steps be taken by Nazarat Branch.

- (a) Subject be mentioned as ‘Service of Court-Summons by Electronic Mail in Case No.’
- (b) In the body of the mail, following particulars be filled:

Please find attached herewith Court-Summons issued by the Court of (Full address)
in Case No.

- (c) Sender be shown as In-charge, Nazarat Branch of the concerned Court Complex.
- (d) E-Summons and ‘documents’ be attached as “Attachment(s)”

(16) Following note should be appended to the email sent through such accounts.

NOTE.—This is a system generated email. Please do not reply. If you are not the intended recipient, kindly ignore the mail.

DELIVERY OF ELECTRONIC PROCESS.—(17) Upon receipt of process by the recipient, the system should auto generate acknowledgment e-mail and send to the concerned Officer of the Court.

(18) When an email is not delivered or the delivery of the email is disrupted and bounced back for any reason whatsoever, or a “return to sender” message, ‘bounce back message’ or ‘error message’ is received from the mail server, the Nazarat Branch shall immediately send the pdf of the bounced email to the concerned Court.

MAINTENANCE OF RECORD.—(19) In-charge, Nazarat Branch of the concerned Court Establishment shall maintain record of the process sent through email.

(20) Separate folders denoting Case No. shall be created in the Official email account. Electronic Process sent through such account shall be stored in the folder of the respective Case No.

(21) The concerned clerk shall store pdf of auto generated acknowledgment emails and bounced emails in the sub-folder ‘Report’.

DISCLAIMER.—The Court and its employees also accept no responsibility for any loss, damage, claim, expense, cost or liability whatsoever (including in contract, tort including negligence, pursuant to statute and otherwise) arising in respect of or in connection with the service of the electronic process.

No suit, prosecution or other legal proceeding shall lie against the Court or any officer of the Court or any other person exercising any powers or discharging any functions or performing any duties under by the order of the Court, for non delivery, insufficient or failure of service or incorrect service of electronic process for any reason whatsoever.

Dated 3rd May 2019.

SURENDRA P. TAVADE,

Registrar General.